



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0114]

RIN 1625-AA08

Special Local Regulations; Red Bull Flugtag National Harbor event, Potomac River; National Harbor Access Channel, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the "Red Bull Flugtag National Harbor event," to be held on the waters of the Potomac River on September 21, 2013. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. These special local regulations will establish an event area, where all persons and vessels, except those persons and vessels participating in the Flugtag event, are prohibited from entering, transiting through, anchoring in or remaining within, and a spectator area, where all vessels are prohibited from transiting in excess of wake speed, unless authorized by the Captain of the Port Baltimore or his designated representative. This

action is intended to temporarily restrict vessel traffic in a portion of the Potomac River during the event.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston,

Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We

recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2013-0114] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0114) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the

Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Basis and Purpose

On September 21, 2013, The Peterson Companies of National Harbor, Maryland, is sponsoring the Red Bull Flugtag National Harbor event, a competition held along the Potomac River at National Harbor, Maryland. Approximately 30 competing teams will operate homemade, human-powered

flying devices launched from a ramp constructed at National Harbor, located downriver from the Woodrow Wilson Memorial (I-495/I-95) Bridge, in Maryland. The competitors will be supported by sponsor-provided watercraft. The sponsor estimates 10,000 spectators during the event. The Coast Guard anticipates a large spectator vessel fleet present during the event.

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Red Bull Flugtag National Harbor event.

C. Discussion of Proposed Rule

The Coast Guard proposes to establish special local regulations on specified waters of the Potomac River. The regulations will be effective from 9 a.m. to 7 p.m. on September 21, 2013. The regulated area, approximately 600 yards in length and 500 yards in width and extends across the entire width of the National Harbor Access Channel, includes all waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude 077°01'31" W, thence northerly to position latitude 38°47'02" N, longitude 077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude 077°01'22" W, thence southeasterly to the

shoreline at position latitude 38°46'56" N, longitude 077°01'07" W. An event area and a designated spectator area exist within this regulated area. The event area, where all persons and vessels, except those persons and vessels participating in the competition, are prohibited from entering, transiting through, anchoring in, or remaining within, includes all waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude 077°01'31" W, thence northerly to position latitude 38°46'52" N, longitude 077°01'31" W, thence easterly to position latitude 38°46'54" N, longitude 077°01'17" W, thence northerly to position latitude 38°46'59" N, longitude 077°01'14" W, thence southeasterly to the shoreline at position latitude 38°46'56" N, longitude 077°01'07" W. The designated spectator area, where all vessels are prohibited from transiting in excess of wake speed unless authorized by the Captain of the Port Baltimore or his designated representative and persons and vessels may request authorization to enter, transit through, anchor in, or remain within, includes all waters of the Potomac River, within lines connecting the following positions: from 38°46'53" N, longitude 077°01'32" W, thence northerly to latitude 38°47'02" N, longitude 077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude

077°01'22" W, thence southeasterly to position latitude 38°47'02" N, longitude 077°01'16" W, thence southwesterly to position latitude 38°46'58" N, longitude 077°01'18" W, thence southwesterly to position latitude 38°46'55" N, longitude 077°01'22" W, thence westerly to position latitude 38°46'53" N, longitude 077°01'32" W.

The effect of this proposed rule will be to restrict general navigation in the regulated area during the event. Vessels intending to transit the Potomac River through the regulated area, including the National Harbor Access Channel, will only be allowed to safely transit the regulated area when the Coast Guard Patrol Commander has deemed it safe to do so. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be enforced for only 10 hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the event area, without authorization from the Captain of the Port Baltimore or his designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the designated spectator area during the enforcement period; (4) persons and vessels may still enter and transit through the National Harbor Access Channel, within the regulated area during the enforcement period, with prior authorization from the Captain of the Port Baltimore or his designated representative and without loitering; and (5) the Coast Guard will provide advance notification of the special local

regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Potomac River encompassed within the special local regulations from 9 a.m. until 7 p.m. on September 21, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity,

and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves special local regulations issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and

recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary section, § 100.35-T05-0114 to read as follows:

§ 100.35-T05-0114 Special Local Regulations for Marine Events; Potomac River, National Harbor Access Channel, MD.

(a) Regulated Areas. The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) Regulated Area: All waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude 077°01'31" W, thence northerly to position latitude 38°47'02" N, longitude 077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude 077°01'22" W, thence southeasterly to the shoreline at position latitude 38°46'56" N, longitude 077°01'07" W.

(1) Event Area: All waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46'51" N, longitude

077°01'31" W, thence northerly to position latitude 38°46'52" N, longitude 077°01'31" W, thence easterly to position latitude 38°46'54" N, longitude 077°01'17" W, thence northerly to position latitude 38°46'59" N, longitude 077°01'14" W, thence southeasterly to the shoreline at position latitude 38°46'56" N, longitude 077°01'07" W.

(2) Designated Spectator Area: All waters of the Potomac River, within lines connecting the following positions: from 38°46'53" N, longitude 077°01'32" W, thence northerly to latitude 38°47'02" N, longitude 077°01'35" W, thence easterly to position latitude 38°47'05" N, longitude 077°01'22" W, thence southeasterly to position latitude 38°47'02" N, longitude 077°01'16" W, thence southwesterly to position latitude 38°46'58" N, longitude 077°01'18" W, thence southwesterly to position latitude 38°46'55" N, longitude 077°01'22" W, thence westerly to position latitude 38°46'53" N, longitude 077°01'32" W.

(b) Definitions. (1) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast

Guard ensign.

(3) Participant means all persons and vessels participating in the Red Bull Flugtag National Harbor event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) Spectator means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) Special local regulations. (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol vessel, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property.

(3) All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(4) Only participants and official patrol are allowed to enter the event area.

(5) Spectators are allowed inside the regulated area only if they remain within the designated spectator area. Spectators will be permitted to anchor within the designated spectator area. No vessel may anchor within the regulated area outside the designated spectator area. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area, outside the event area, at a safe speed and without loitering.

(6) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Effective period. This section is effective from 9 a.m. until 7 p.m. on September 21, 2013.

Dated: March, 6, 2013

Kevin C. Kiefer
Captain, U.S. Coast Guard
Captain of the Port Baltimore.

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